IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 5-9-2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.4913 of 2006
and
MP No.796 of 2007

S.Periyadurai .. Petitioner

vs

1.The Secretary to Government
Home (Police III) Department
Fort St. George, Chennai 9.

2.The Director General of Police
Chennai 4. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent herein to pass orders transferring the petitioner to Taluk Police as Sub-Inspector of Police in the direct recruitment vacancies of the year 2002, with all consequential monetary and service benefits.

For Petitioner : Mr.S.Ravi
For Respondents : Mr.I.Paranthaman
Additional Government
Pleader

ORDER

This writ petition has been brought forth seeking a relief of writ of mandamus to direct the first respondent to transfer the petitioner to the Taluk Police as Sub Inspector of Police in the direct recruitment vacancies of the year 2002 with all consequential monetary and service benefits.

2.Affidavit in support of the petition is perused. The Court heard the learned Counsel on either side.

3.The only grievance ventilated by the petitioner is that he joined the police services as a Constable in Armed Reserve in 1988; that he was transferred to Taluk Police for about two years where he served; that he qualified himself and became eligible to participate in the selection for appointment as Sub Inspector of Police by direct recruitment; that he also attended the selection conducted for the direct recruitment of 20% quota among

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departmental candidates for the post of Sub Inspector of Police; that thereafter, he has become promoted as Sub Inspector of Police; that by his efficient service, he had got several rewards; that he was never subjected to any punishment; that by G.O.Ms.No.1598, Home Department, dated 5.11.1997, orders were issued reserving 10% direct recruitment vacancies in the post of Sub Inspector of Police (Taluk Police) to be filled up from among the holders of the post of Sub Inspector of Police (Armed Reserve) and Sub Inspector of Police (Tamil Nadu Special Police Battalion) by transfer (conversion)/by recruitment or transfer subject to the condition that they must possess unblemished record of service and satisfy the conditions namely (1) They must be graduates; (2) They should not have completed 40 years of age; and (3) They must have completed 5 years of service in the respective category of Sub Inspector of police (Armed Reserve)/(Tamil Nadu Special Police Battalion); that the petitioner is a graduate and had completed 5 years of unblemished service in the post of Sub Inspector of Police by 2.6.2002; that he has got unblemished service record; that when he competed, his age was found to be 11 days above the necessary age; that under the circumstances, he was not converted as Sub Inspector of Police (Taluk Police) from Tamil Nadu Special Police Battalion. It is further contended that now, the Government by G.O.Ms.No.312 Home (Police III) Department, dated 4.4.2003, had relaxed the age qualification and service qualification; that under the circumstances, now he becomes fit; that he made representations; but, they are kept pending; that now, the writ petition has been filed; that the respondents filed a counter wherein it has been clearly averred that the pendency of the writ petition is the reason for the non-conversion, and under the circumstances, there cannot be any impediment for passing an order in favour of the petitioner.

4.The Court heard the learned Additional Government Pleader on the above contentions. All the above factual positions are admitted.

5.The State in the course of the counter had reproduced the paragraph 2 of the G.O.Ms.No.1165 Home (Police 3) Department, dated 6.8.2007 which runs as follows:

> "2)..... As regards Thiru S.Periyadurai (Sl.No.16), he has filed W.P.No.4913/2006 on the same subject and necessary counter has been filed. The matter is subjudice. Hence, the Director General of Police has not recommended these 2 cases for conversion in the present proposal."

6.From the very reading of the counter, it would be quite clear that WP No.4913/2006 was actually the impediment for not considering the petitioner's case, and hence, he could not be considered. Once the age has been relaxed and he is also a fit candidate, there cannot be any impediment for the authority to consider his representation and pass suitable orders immediately. Accordingly, a direction is issued to the first respondent to

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consider the case of the petitioner and pass suitable orders within a period of eight weeks herefrom, and this writ petition is disposed of. No costs. Consequently, connected WPMP is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

nsv/

To:

1.The Secretary to Government
Home (Police III) Department
Fort St. George, Chennai 9.

2.The Director General of Police
Chennai 4.

1 cc to Mr.S. Ravi, Advocate, SR. 55279
1 cc to the Government Pleader, Sr. 55560

WP No.4913 of 2006

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